

REMARKS

Claims 17-31 are pending in the application. Reconsideration of the rejections is respectfully requested in view of the amendments and remarks.

Claim 17 has been objected to for informalities. Claim 17 has been amended to claim, “until a capability of the Consumer to use at least one of the levels of the service is validated” and “processing the set of second validation data by the service Provider to evaluate the capability of the Consumer to use at least one of the levels of the service of the service Provider.” Entry of the amendments and reconsideration of the objection is respectfully requested.

Claims 17-19, 22-23, 26 and 29-30 are rejected under 35 USC 103(a) as being unpatentable over Wiser (US 6,868,403) in view of Yamanaka et al. (US 7,072,861). The Examiner stated essentially that the combined teachings of Wiser and Yamanaka teach or suggest all the limitations of Claims 17-19, 22-23, 26 and 29-30.

Claim 17 is the pending independent claim.

The Examiner’s Response to Arguments are appreciated; in response, please consider the following remarks:

Wiser teaches an online music distribution system for secure delivery of audio data (see Abstract). The system includes a delivery service 118 including a preview module 1104 and purchase module 1106 (see col. 19, lines 31-41 and col. 23, lines 37-42). Wiser does not teach or suggest “processing the set of second validation data by the service Provider to evaluate the capability of the Consumer to use at least one of the levels of the service of the service Provider, wherein processing comprises evaluating the set of second validation data against the criteria for accessing at least one of the levels of the service; and providing at least one level of the service

to the Consumer responsive to a request of the Consumer only after the evaluation of said set of second validation data” as claimed in Claim and 17. While the Examiner noted that the reference is not wholly deficient to teach service validation simply because Wiser discloses some levels of access that do not require validation, the claimed limitations requires that service of even one level is provided only after evaluation of validation data. While Wiser teaches that a client system is connected to a music distribution center for delivering a media data file to the client system (see FIG. 1 and col. 6, lines 31-52), Wiser allows access to some portions of the secure online music distribution system without any validation of the user’s ability to use any level of the system; for example, a user may browse and listen to previews before registration or payment (see col. 16, lines 30-39). Since a preview module is accessible to a user under Wiser, Wiser does not teach that service is withheld without validation.

Furthermore, upon review of Wiser, Wiser teaches that access to media is a function of payment and security (see for example, col. 13, lines 38-40 and col. 18, lines 58-60). Wiser fails to teach that access is granted/denied based on an ability of the client to use the media – that is the client of Wiser can request any quality level existing in the master media files (see for example, col. 16, line 65 to col. 17, line 5). Thus, Wiser fails to teach the claimed limitation of denying “access to the service until a capability of the Consumer to use at least one of the levels of the service is validated” as claimed in Claim 17.

In view of the foregoing, Wiser fails to teach or suggest all the limitations of Claim 17.

Respectfully, Yamanaka fails to cure the deficiencies of Wiser. Yamanaka teaches that a digital content retailer reserves the transfer rate and the transmission time-zone in the network and downloads digital content to the consumer through the network at the digital content transmission condition according to the reservation (see Abstract). Yamanaka does not teach or suggest “processing the set of second validation data by the service Provider to evaluate the capability of the Consumer to use at least one of the levels of the service of the service Provider,

wherein processing comprises evaluating the set of second validation data against the criteria for accessing at least one of the levels of the service; and providing at least one level of the service to the Consumer responsive to a request of the Consumer only after the evaluation of said set of second validation data” as claimed in Claim 17. Yamanaka checks whether a consumer has sufficient data capacity for storage of digital content (see col. 15, lines 8-37) - the service of Yamanaka is provided before any check is performed. The check occurs after a request of the consumer for the digital content. Yamanaka does not teach or suggest an evaluation of a consumer to use a service only after an evaluation of data from the consumer for compliance, prior to a request of the consumer. Therefore, Yamanaka fails to cure the deficiencies of Wiser.

The combined teachings of Wiser and Yamanaka teach methods for evaluating a consumer’s request for digital content. The combined teachings of Wiser and Yamanaka fail to teach or suggest “providing at least one level of the service to the Consumer responsive to a request of the Consumer only after the evaluation of said set of second validation data” as claimed in Claim 17.

For at least the foregoing reasons, Claim 17 is believed to be allowable.

Claims 18-19, 22-23, 26 and 29-30 depend from Claim 17 and are believed to be allowable for at least the reasons given for Claim 17. Reconsideration of the rejection is respectfully requested.

Claims 20 and 31 have been rejected under 35 USC 103(a) as being unpatentable over Wiser in view of Yamanaka as applied to Claim 17, and further in view of Official Notice. The Examiner stated essentially that the combined teachings of Wiser and Yamanaka in view of Official Notice, teach or suggest all the limitations of Claims 20 and 31.

Claims 20 and 31 depend from Claim 17 and are believed to be allowable for at least the reasons given for Claim 17. Reconsideration of the rejection is respectfully requested.

Claim 21 have been rejected under 35 USC 103(a) as being unpatentable over Wiser in view of Yamanaka as applied to Claim 17, and further in view of MacLellan et al. (US 6,886,116). The Examiner stated essentially that the combined teachings of Wiser, Yamanaka, and MacLellan, teach or suggest all the limitations of Claim 21.

Claim 21 depends from Claim 17 and is believed to be allowable for at least the reasons given for Claim 17. Reconsideration of the rejection is respectfully requested.

Claims 24-25, and 28 have been rejected under 35 USC 103(a) as being unpatentable over Wiser in view of Yamanaka as applied to Claim 17, and further in view of Tadano et al. (US 2002/0165807). The Examiner stated essentially that the combined teachings of Wiser, Yamanaka, and Tadano, teach or suggest all the limitations of Claims 24-25, and 28.

Claims 24-25 and 28 depend from Claim 17 and are believed to be allowable for at least the reasons given for Claim 17. Reconsideration of the rejection is respectfully requested.

Claim 27 have been rejected under 35 USC 103(a) as being unpatentable over Wiser in view of Yamanaka as applied to Claim 17, and further in view of Jansen et al. (US 6,243,450). The Examiner stated essentially that the combined teachings of Wiser, Yamanaka, and Jansen, teach or suggest all the limitations of Claim 27.

Claim 27 depends from Claim 17 and is believed to be allowable for at least the reasons given for Claim 17. Reconsideration of the rejection is respectfully requested.

For the forgoing reasons, the present application, including Claims 17-31, is believed to be in condition for allowance. The Examiner's early and favorable action is respectfully urged.

Respectfully submitted,

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